

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 218**

FINAL READING

Introduced by Cornett, 45; Heidemann, 1.

Read first time January 13, 2009

Committee: Revenue

A BILL

1 FOR AN ACT relating to state aid; to amend sections 13-518,  
2 47-120, 71-5326, 77-27,136, 77-27,139, 81-15,158, 83-380,  
3 and 83-4,133, Reissue Revised Statutes of Nebraska,  
4 and sections 77-27,137.01 and 77-27,137.02, Revised  
5 Statutes Cumulative Supplement, 2008; to change and  
6 eliminate provisions relating to aid to various political  
7 subdivisions; to change and eliminate provisions relating  
8 to jail reimbursement; to harmonize provisions; to  
9 provide an operative date; to repeal the original  
10 sections; and to outright repeal sections 47-119,  
11 47-119.01, 47-121, 47-121.01, 77-27,137, and 77-3618,  
12 Reissue Revised Statutes of Nebraska.

13 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 13-518, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           13-518 For purposes of sections 13-518 to 13-522:

4           (1) Allowable growth means (a) for governmental units  
5 other than community colleges, the percentage increase in taxable  
6 valuation in excess of the base limitation established under  
7 section 77-3446, if any, due to improvements to real property as  
8 a result of new construction, additions to existing buildings,  
9 any improvements to real property which increase the value of  
10 such property, and any increase in valuation due to annexation  
11 and any personal property valuation over the prior year and (b)  
12 for community colleges, (i) for fiscal years prior to fiscal year  
13 2003-04 and after fiscal year 2004-05 until fiscal year 2007-08,  
14 the percentage increase in excess of the base limitation, if  
15 any, in full-time equivalent students from the second year to  
16 the first year preceding the year for which the budget is being  
17 determined, (ii) for fiscal year 2003-04 and fiscal year 2004-05,  
18 the percentage increase in full-time equivalent students from the  
19 second year to the first year preceding the year for which the  
20 budget is being determined, and (iii) for fiscal year 2007-08 and  
21 each fiscal year thereafter, community college areas may exceed the  
22 base limitation to equal base revenue need calculated pursuant to  
23 section 85-2223;

24           (2) Capital improvements means (a) acquisition of real  
25 property or (b) acquisition, construction, or extension of any

1 improvements on real property;

2 (3) Governing body has the same meaning as in section  
3 13-503;

4 (4) Governmental unit means every political subdivision  
5 which has authority to levy a property tax or authority to  
6 request levy authority under section 77-3443 except sanitary and  
7 improvement districts which have been in existence for five years  
8 or less and school districts;

9 (5) Qualified sinking fund means a fund or funds  
10 maintained separately from the general fund to pay for acquisition  
11 or replacement of tangible personal property with a useful life of  
12 five years or more which is to be undertaken in the future but  
13 is to be paid for in part or in total in advance using periodic  
14 payments into the fund. The term includes sinking funds under  
15 subdivision (13) of section 35-508 for firefighting and rescue  
16 equipment or apparatus;

17 (6) Restricted funds means (a) property tax, excluding  
18 any amounts refunded to taxpayers, (b) payments in lieu of property  
19 taxes, (c) local option sales taxes, (d) motor vehicle taxes, (e)  
20 state aid, (f) transfers of surpluses from any user fee, permit  
21 fee, or regulatory fee if the fee surplus is transferred to fund a  
22 service or function not directly related to the fee and the costs  
23 of the activity funded from the fee, (g) any funds excluded from  
24 restricted funds for the prior year because they were budgeted for  
25 capital improvements but which were not spent and are not expected

1 to be spent for capital improvements, (h) the tax provided in  
2 sections 77-27,223 to 77-27,227 beginning in the second fiscal year  
3 in which the county will receive a full year of receipts, and (i)  
4 any excess tax collections returned to the county under section  
5 77-1776; and

6 (7) State aid means:

7 (a) For all governmental units, state aid paid pursuant  
8 to sections 60-3,202 and 77-3523;

9 (b) For municipalities, state aid to municipalities  
10 paid pursuant to sections 18-2605, 39-2501 to 39-2520, 60-3,190,  
11 77-27,136, and 77-27,139.04 and insurance premium tax paid to  
12 municipalities;

13 (c) For counties, state aid to counties paid pursuant to  
14 sections 39-2501 to 39-2520, ~~47-119.01,~~ and 60-3,184 to 60-3,190,  
15 ~~77-27,136,~~ and 77-3618, and section 7 of this act, insurance  
16 premium tax paid to counties, and reimbursements to counties from  
17 funds appropriated pursuant to section 29-3933;

18 (d) For community colleges, state aid to community  
19 colleges paid under the Community College Foundation and  
20 Equalization Aid Act;

21 (e) For natural resources districts, state aid to natural  
22 resources districts paid pursuant to section 77-27,136;

23 (f) For educational service units, state aid appropriated  
24 under section 79-1241; and

25 (g) For local public health departments as defined in

1 section 71-1626, state aid as distributed under section 71-1628.08.

2 Sec. 2. Section 47-120, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 47-120 The county board or county board of corrections  
5 serving pursuant to Chapter 23, article 28, shall provide proper  
6 quarters and adequate equipment for the preparation and serving  
7 of all meals furnished to all prisoners confined in the county  
8 jail. The county sheriff or the county board of corrections shall  
9 have full charge and control of such services and the county  
10 board shall provide for all washing, fuel, lights, and clothing  
11 for prisoners, ~~subject to reimbursement for state prisoners from~~  
12 ~~the state pursuant to section 47-119.01,~~ and subject to the right  
13 of the county to be paid by the city or federal government for  
14 city or federal prisoners at actual cost to the county. Supplies  
15 of every nature entering into the furnishing of meals, washing,  
16 fuel, lights, and clothing to the prisoners confined in the county  
17 jail shall be purchased and provided under the direction of the  
18 county sheriff or the county board of corrections. Payment for  
19 all purchases shall only be made by the county board on the  
20 original invoices submitted by the sheriff or the county board of  
21 corrections of goods, supplies, and services, setting forth (1)  
22 that the invoice correctly describes the goods as to quality and  
23 quantity, (2) that the same have been received and are in the  
24 custody of the affiant, (3) that they have been or will be devoted  
25 exclusively to the purposes authorized in this section, and (4)

1 that the price charged is reasonable and just. Nothing in this  
2 section shall be construed to restrict the sheriff or the county  
3 board of corrections in employing necessary personnel and from  
4 otherwise carrying out the duties required in the operation of the  
5 jail.

6 Sec. 3. Section 71-5326, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 71-5326 If a municipality, county, or natural resources  
9 district fails to make any payment pursuant to a loan within  
10 sixty days of the date due, such payment shall be deducted  
11 from the amount of aid to municipalities, counties, or natural  
12 resources ~~district~~ districts to which the municipality, county, or  
13 natural resources district is entitled under sections 77-27,136 to  
14 77-27,137.02 or section 7 of this act. Such amount shall be paid  
15 directly to the fund from which the loan was made.

16 Sec. 4. Section 77-27,136, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 77-27,136 The Legislature shall ~~appropriate seventeen~~  
19 ~~million nine hundred thousand dollars of all~~ may appropriate funds  
20 collected by a general sales tax and income tax for aid to  
21 incorporated municipalities, ~~thirteen million five hundred thousand~~  
22 ~~dollars for aid to counties, and seven hundred thousand dollars for~~  
23 ~~aid to~~ counties, and natural resources districts.

24 Sec. 5. Section 77-27,137.01, Revised Statutes Cumulative  
25 Supplement, 2008, is amended to read:

1           77-27,137.01 ~~(1)~~ The appropriation ~~provided for~~ made  
2 pursuant to the authority in section 77-27,136 for aid to  
3 incorporated municipalities shall be allocated by the Tax  
4 Commissioner to the various incorporated municipalities. The Tax  
5 Commissioner shall determine the amount to be distributed to the  
6 incorporated municipalities and certify such amounts by voucher  
7 to the Director of Administrative Services. Each amount shall be  
8 distributed in seven as nearly as possible equal monthly payments  
9 on the last business day of each month beginning in December.  
10 The State Treasurer shall, on the business day preceding the last  
11 business day of each month, notify the Director of Administrative  
12 Services of the amount of funds available in the General Fund for  
13 payment purposes. The Director of Administrative Services shall,  
14 on the last business day of each month, draw warrants against  
15 funds appropriated. ~~Except as provided in subsection (2) of this~~  
16 ~~section,~~ the Tax Commissioner shall compute the amount due the  
17 incorporated municipalities on the ratio of the population of the  
18 particular incorporated municipality to the total population of all  
19 incorporated municipalities in the state as determined by the most  
20 recent federal census figures certified by the Tax Commissioner as  
21 provided in section 77-3,119, which amounts shall be placed in the  
22 general fund of such municipalities.

23           ~~(2) For fiscal years 2003-04 through 2008-09, the~~  
24 ~~allocation of state aid provided for in subsection (1) of this~~  
25 ~~section shall be calculated based on the amount appropriated plus~~

1 ~~an additional five hundred twenty thousand dollars, and the amount~~  
 2 ~~of state aid calculated for a city of the primary class shall~~  
 3 ~~be reduced by the amount received by the city of the primary~~  
 4 ~~class under the Municipal Infrastructure Redevelopment Fund Act for~~  
 5 ~~fiscal years 2003-04 through 2008-09. Beginning with fiscal year~~  
 6 ~~2009-10, the amount of aid to municipalities appropriated shall be~~  
 7 ~~increased by five hundred twenty thousand dollars.~~

8           Sec. 6. Section 77-27,137.02, Revised Statutes Cumulative  
 9 Supplement, 2008, is amended to read:

10           77-27,137.02 The appropriation ~~provided for~~ made pursuant  
 11 to the authority in section 77-27,136 for aid to natural resources  
 12 districts shall be distributed to the various natural resources  
 13 districts of the state on the basis of the ratio of the  
 14 total amount of property taxes levied by the particular natural  
 15 resources district to the total amount of property taxes levied  
 16 by all natural resources districts within the state based on  
 17 amounts stated in the most recent certificate of taxes levied  
 18 statement and schedules submitted by each county to the Tax  
 19 Commissioner pursuant to section 77-1613.01. The Tax Commissioner  
 20 shall determine the amount to be distributed to the various  
 21 natural resources districts and certify such amounts by voucher  
 22 to the Director of Administrative Services. Each amount shall  
 23 be distributed in seven as nearly as possible equal monthly  
 24 payments between the fifth and twentieth day of each month  
 25 beginning December 1, 1982, and each December thereafter. The



1 State Treasurer shall, between the fifth and twentieth day of  
2 each month, notify the Director of Administrative Services of  
3 the amount of funds available in the General Fund for payment  
4 purposes. The Director of Administrative Services shall, upon  
5 receipt of such notification and vouchers, draw warrants against  
6 funds appropriated. The proceeds of the payments received by  
7 the various natural resources districts shall be credited to the  
8 general fund of the district.

9           Sec. 7. The Legislature shall appropriate funds as aid to  
10 counties in an amount equal to a percentage of the total real and  
11 personal property valuation of all counties, such percent to be not  
12 less than .0075 percent nor more than .0125 percent.

13           Of the appropriation, each county shall receive thirty  
14 thousand dollars and the remaining amount shall be distributed  
15 to each county on the basis of the ratio of the total real and  
16 personal property valuation in the county to the total real and  
17 personal property valuation in the state.

18           The Tax Commissioner shall determine the amount to be  
19 distributed to the various counties under this section and certify  
20 such amounts to the Director of Administrative Services on or  
21 before July 1 of each year. Each amount shall be distributed in  
22 nine as nearly as possible equal monthly payments on the last  
23 business day of each month beginning in September.

24           Sec. 8. Section 77-27,139, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           77-27,139 Each political subdivision receiving funds as  
2 provided by sections 77-27,136 to 77-27,137.02 and section 7 of  
3 this act shall take into consideration the amount it will receive  
4 under such sections during its fiscal year in determining its tax  
5 levy for that fiscal year.

6           Sec. 9. Section 81-15,158, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           81-15,158 If a municipality or county fails to make any  
9 payment pursuant to a loan within sixty days of the date due, such  
10 payment shall be deducted from the amount of aid to municipalities  
11 or counties to which the municipality or county is entitled under  
12 sections 77-27,136 to 77-27,137.01 or section 7 of this act.  
13 Such amount shall be paid directly to the Wastewater Treatment  
14 Facilities Construction Loan Fund.

15           Sec. 10. Section 83-380, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           83-380 Within thirty days after June 30, 1971, and each  
18 year thereafter, the department shall certify to the Director of  
19 Administrative Services all amounts not previously certified due to  
20 each state institution from the several counties having patients  
21 chargeable thereto. The Director of Administrative Services shall  
22 thereupon notify the county clerk of each county of the amount each  
23 county owes. The county board shall add to its next levy an amount  
24 sufficient to raise the amount certified as due. The county shall  
25 pay the amount certified into the state treasury on or before the

1 next June 1 following such certification.

2 From any county which fails to pay the total amount  
3 certified as due annually by the next June 1 following  
4 certification, there shall be withheld by the State Treasurer from  
5 the next allocation to such county due under the provisions of  
6 ~~section 77-27,137,~~ section 7 of this act an amount sufficient to  
7 equal the amount unpaid from such county which amount shall be  
8 deducted from the county's portion and not the municipalities'  
9 under section 77-27,137.01. The State Treasurer shall credit the  
10 amount withheld the same as if the county had paid it when due as  
11 above provided.

12 Sec. 11. Section 83-4,133, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 83-4,133 If the governing body of the juvenile detention  
15 facility or criminal detention facility fails to initiate  
16 corrective action within six months after the receipt of such  
17 inspection report, fails to correct the disclosed conditions,  
18 or fails to close the criminal detention facility or juvenile  
19 detention facility or the objectionable portion thereof, the  
20 Jail Standards Board shall advise the Department of Correctional  
21 Services that the criminal detention facility does not qualify for  
22 reimbursement for state prisoners under section 47-119.01 and at  
23 the same time or at a later date may petition the district court  
24 within the judicial district in which such facility is located  
25 to close the facility. Such petition shall include the inspection

1 report regarding such facility. The local governing body shall  
 2 then have thirty days to respond to such petition and shall serve  
 3 a copy of the response on the Jail Standards Board by certified  
 4 mail, return receipt requested. Thereafter, a hearing shall be held  
 5 on the petition before the district court, and an order shall be  
 6 rendered by such court which either:

- 7 (1) Dismisses the petition of the Jail Standards Board;
- 8 (2) Directs that corrective action be initiated in some  
 9 form by the local governing body of the facility in question; or
- 10 (3) Directs that the facility be closed. An appeal from  
 11 the decision of the district court may be taken to the Court of  
 12 Appeals.

13 ~~If the Jail Standards Board petitions to have the~~  
 14 ~~facility closed, the local governing body may challenge the no~~  
 15 ~~reimbursement for state prisoners determination in that action,~~  
 16 ~~and if there is no petition to close the facility, the local~~  
 17 ~~governing body may challenge the no reimbursement for state~~  
 18 ~~prisoners determination by filing an action in district court.~~

19 Sec. 12. This act becomes operative on July 1, 2011.

20 Sec. 13. Original sections 13-518, 47-120, 71-5326,  
 21 77-27,136, 77-27,139, 81-15,158, 83-380, and 83-4,133, Reissue  
 22 Revised Statutes of Nebraska, and sections 77-27,137.01 and  
 23 77-27,137.02, Revised Statutes Cumulative Supplement, 2008, are  
 24 repealed.

25 Sec. 14. The following sections are outright repealed:

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- 1 Sections 47-119, 47-119.01, 47-121, 47-121.01, 77-27,137, and
- 2 77-3618, Reissue Revised Statutes of Nebraska.